

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9, the Iowa Finance Authority hereby amends Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Iowa Administrative Code.

The purpose of these amendments is to implement a per-applicant cap on allotments and to provide a set-aside to the Iowa Department of Economic Development for directing allotments of Midwestern Disaster Area bonds issued and sold pursuant to the Heartland Disaster Tax Relief Act of 2008.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to victims of the natural disasters is needed as soon as possible, recent federal guidance has clarified permitted uses of the authority to issue Midwestern Disaster Area bonds, and the normal notice and public participation process would delay implementation of these amendments.

The Authority finds that these amendments confer a benefit on the persons affected, namely, the persons and businesses adversely affected by the natural disasters of 2008, in that the amendments provide a form of financial assistance and ease and speed the administration of an important federal remedy benefiting those persons and should be implemented as soon as feasible in order to facilitate the recovery of the affected areas. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on February 3, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 8549B** to allow for public comment.

These amendments became effective February 4, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9.

The following amendments are adopted.

ITEM 1. Amend paragraph **30.3(1)“b”** as follows:

b. Is a person ~~designated for purposes of Section 1400N(a) of the Internal Revenue Code by the governor as a person carrying on a trade or business~~ replacing a trade or business with respect to which another person suffered such a loss.

ITEM 2. Amend subrule 30.3(2) as follows:

30.3(2) In the case of a project relating to public utility property (as defined in Section 168(i)(10) of the Internal Revenue Code), to be eligible for an allotment, the applicant must certify that the project involves repair or reconstruction of public utility property damaged by the disasters.

ITEM 3. Amend rule 265—30.4(16) as follows:

265—30.4(16) ~~Formula for allocation~~ Allocation limit and Iowa department of economic development set-aside.

30.4(1) ~~Pro rata allocation.~~ Per-applicant cap; set-aside.

a. Through December 31, ~~2009~~ 2011, allotments shall be limited to not more than \$200 million per applicant, with any related party, as defined under Section 267 of the Internal Revenue Code, being included within the meaning of applicant for the application of subrule 30.4(1). ~~allocated by the governor’s designee on a pro rata basis among projects located in Iowa counties affected by the disasters. Projects in each county so affected shall be eligible, collectively, to receive in the aggregate a pro rata percentage (based on the percentage of housing assistance received by each county from the Federal Emergency Management Agency), as set forth on Schedule A at the end of this chapter, of \$2~~

billion of allotments. During such period, all remaining portions of the total aggregate face amount of MDA bonds permitted under the Act, beyond the \$2 billion referenced above, shall be available to all eligible projects, without regard to proration.

b. Through December 31, 2011, an amount of \$300 million shall be set aside and made available to applicants selected by the Iowa department of economic development. The director of the Iowa department of economic development shall notify the authority in writing of the name of each applicant that is to receive an allotment under subrule 30.4(1) and the amount allotted to each applicant. Promptly upon receipt of this written notice, the authority shall award the designated allotment to said applicant.

~~b. c.~~ Following December 31, 2009 2011, all ~~remaining unallocated~~ allotments under paragraph 30.4(1) “~~b~~” shall be available to all eligible projects, ~~without regard to proration~~. Following December 31, 2011, the per-applicant cap set forth in paragraph 30.4(1) “a” shall not apply.

30.4(2) to 30.4(5) No change.

ITEM 4. Amend rule 265—30.6(16) as follows:

265—30.6(16) Certification of allocation. Upon receipt of a completed application, the governor’s designee shall promptly certify to the applicant the amount of the allotment allocated to the project for which the application was submitted. The Subject to subrule 30.4(1), the governor’s designee shall continue to allocate allotments for eligible projects until the allotments allocated equal the maximum aggregate face amount that may be designated as MDA bonds under the Act or until there are no more applications, whichever occurs first. If the remaining allotment capacity is not sufficient to fully fund an application which is next in order for allocation, the governor’s designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor’s designee of its decision to take the available allocation within five calendar days of receiving notice of that option, an allotment shall be offered to the next application on the list under the same conditions to the applicant whose application is next on the list. If the partial allocation is accepted, the applicant shall submit a new application for an additional allotment and that application will be added to the bottom of the list in the chronological order of its receipt. If the bonds are issued and delivered prior to the expiration date of the allocation, then the applicant or the applicant’s attorney shall within ten days following the issuance and delivery of the bonds notify the governor’s designee by filing the form captioned “Notice of Issuance and Delivery of Bonds.”

ITEM 5. Rescind Schedule A at the end of **265—Chapter 30.**

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.